

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JACK TURNER and PAM TURNER, co-
administrators of the Estate of CORBIN
TURNER, deceased,

Plaintiffs,

v.

OFFICE OF THE SHERIFF OF
CRAWFORD COUNTY, et al.,

Defendants.

Case No. 08-cv-837-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on Motions to Dismiss filed by defendants Crawford County Board, Office of the Sheriff of Crawford County, and Todd W. Liston (Doc. 18) and by defendants Tate Myers and Troy Love (Doc. 20), both of which were filed on February 17, 2009. After Plaintiffs failed to respond to the motions in a timely manner, the Court entered an Order to Show Cause (Doc. 39) why the failure to respond should not be construed as an admission to the merits of the motions. The Court also pointed out that Defendant City of Robinson Police Department, named in Counts X, XI and XII, had never been served, and ordered Plaintiffs to show cause why those claims should not be dismissed for failure to effectuate service in accordance with Rule 4(m).

Plaintiffs response to the Order to Show Cause addressed only the Motion to Dismiss filed by defendants Crawford County Board, Office of the Sheriff of Crawford County, and Todd Liston, not the Motion to Dismiss filed by defendants Myers and Love. In their response Plaintiffs concede the merits of defendant Crawford County Board, Office of the Sheriff of Crawford County, and Liston's Motion to Dismiss. Plaintiffs ask the Court for 21 days to amend the Complaint in order to state a claim against those defendants. Plaintiffs have had four months, during which the Motions to Dismiss have been pending, to fashion an adequately amended Complaint, but have failed to do

so. They have given the Court no indication why they require additional time. Therefore, to the extent that Plaintiffs's Response to the Court's Order to Show Cause is a motion for extension of time, it is denied. The Court grants the Motion to Dismiss filed by defendants Crawford County Board, Office of the Sheriff of Crawford County, and Todd W. Liston (Doc. 18).

The Court construes Plaintiffs failure to respond to defendants Myers and Love's Motion to Dismiss and the Court's Order to Show Cause as an admission to the merits of that Motion as well. Therefore, the Court grants that Motion to Dismiss (Doc. 20) as well. Plaintiffs also inform the Court that they had not intended to name Robinson Police Department as a Defendant. Therefore, the Court will dismiss all claims against defendant Robinson Police Department without prejudice.

CONCLUSION

The Court **GRANTS** the Motions to Dismiss (Docs. 18 and 20) and **dismisses** all claims against defendants Crawford County Board, Office of the Sheriff of Crawford County, Todd W. Liston, Tate Myers and Troy Love **with prejudice**. The Court further **dismisses** all claims against defendant Robinson Police Department **without prejudice**. Defendant Van Winkle was previously dismissed without prejudice from this action. Therefore, the surviving claims in this action are: Counts 13 and 14 against defendant Bruce A. Felty, Counts 15 and 16 against defendant Officer Strauch, and Counts 17, 18 and 19 against defendant City of Robinson. The Court **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of this case.

IT IS SO ORDERED.

DATED: June 16, 2009

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE